

1624. *November 25.* SEMPLE *against* CRAWFORD.

Terce is subject to the third part of heritable burdens, and may be appraised with the two parts; but if the terce allenary be comprised for an annual-rent, the lady tercer will have relief against the proprietor, according to the proportion of the debt; and this may be extended as well to the by-runs of the annual-rents, as to the principal sum, whereupon the same is redeemable.

A woman being cognosced to a terce, not only the duties of the said terce are due to her for the time coming, but are drawn back to the decease of her husband, so that she will recover the by-gone mails taken up by whatsoever person.

Moreover, no creditor can prejudge her by diligence, though she start not so soon as he.

*Spottiswood, p. 335.*

\* \* Durie reports this case :

In a double poinding pursued by certain tenants against Crawford and Fleming, the one being heritor of the lands, who had obtained decree against the tenants, suspenders, for payment of the duties of the lands to him as heritor, the other being lady tercer served and kened, the Lords found, That, notwithstanding of the heritor's decree, the lady tercer ought to be answered of her terce of the duties of the said lands, and that not only of those years subsequent to her service and kenning, but also of all years preceding her kenning and service, from the time of the decease of her husband; to the time of whose decease, the Lords found, as in all the like cases, that the service ought to be drawn back, and that so she ought to be answered of all years by-gone foresaid, especially seeing the farms are yet extant in the tenants' hands, unuplifted.

Act. Lawty.

Alt. Aiton.

Clerk, Gibson.

*Durie, p. 153.*

1627. *July 20.* COUNTESS of DUMFERMLINE *against* Her SON.

Terce is due out of all wherein the husband died vest and seased, lands, or teinds, which a man is heritably infest in.

*Spottiswood, p. 336.*

1627. *November 22.* EDGAR *against* EDGARS, &c.

In the action pursued by Margaret Edgar, relict of umquhile David \_\_\_\_\_, and Walter Cant, her spouse, for his interest, against the bairns of the said um-

No. 7.  
Terce carries  
by-gones,  
whatevertime  
the kenning  
be.

No. 8.

No. 9.